

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

POLICY DEVELOPMENT GROUP – 20 SEPTEMBER 2017

Title of report	UPDATE OF THE COUNCIL'S CONSTITUTION
Contacts	<p>Councillor Nicholas Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 bev.smith@nwleicestershire.gov.uk</p> <p>Head of Legal and Support Services 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk</p>
Purpose of report	To seek Scrutiny's comments on and recommendation to Council on proposed amendments arising from the Annual Review of the Constitution
Reason for Decision	To comply with the Constitutional update procedure agreed by Council
Council Priorities	
Implications:	
Financial/Staff	None.
Link to relevant CAT	
Risk Management	A clear and up to date Constitution will minimise the risk of the Authority failing to comply with statutory requirements and assist in delivering its priorities and objectives.
Equalities Impact Assessment	Not applicable.
Human Rights	Not applicable.
Transformational Government	Clear and robust governance arrangements and procedures assist with the effective and efficient delivery of services and proper decision making.

Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	Strategy Group Statutory Officers. Head of Legal and Support Services. Head of Finance
Background papers	None
Recommendations	THAT POLICY DEVELOPMENT GROUP NOTE AND COMMENT ON THE SUGGESTED AMENDMENTS TO THE CONSTITUTION CONTAINED IN PARAGRAPHS 6.1, 7.8 AND 8.3 AND RECOMMEND THEM TO COUNCIL FOR APPROVAL

1.0 BACKGROUND

1.1 Full Council regularly considers items relating to updates to the Constitution. The updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice. Members may recall that, in response to comments and suggestions made by members at Council, it was agreed that:

- (i) the Constitution underwent one main annual review - around the time of Annual Council;
- (ii) any remaining changes or matters arising after this date would be dealt with by way of one mid year review;
- (iii) further reviews or changes would only be suggested outside this process if legislation or national guidance required it;
- (iv) there was some “scrutiny” of the main annual review report whilst in draft and prior to its publication;
- (v) there would be informal consultation / engagement with members on the mid year and other reviews.

2.0 ROLE OF SCRUTINY

2.1 Where amendments are identified and proposed Policy Development Group are asked to consider the draft Council report and comment on the suggested amendments.

3.0 PROCESS OF REVIEW

- 3.1 As indicated at 1.1 above updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice.
- 3.2 Each year a survey of Officers is undertaken and they are invited to submit proposed amendments for consideration by the Monitoring Officer which arise from legislative changes, organisational changes or for reasons of business efficiency
- 3.3 In parallel with this process the Legal Services Team review any proposed legislation which is likely to require amendments to the constitution.

4.0 DISCUSSION

- 4.1 The constitution is currently undergoing a periodic review of its content to reflect best practice and legislative changes.

5.0 CHANGES TO THE CONSTITUTION ARISING FROM THE REVIEW

The Role of Policy Development Group (Scrutiny)

- 5.1 Every local authority that operates Executive arrangements is required by Section 9F of the Local Government Act 2000 is required to appoint one or more committees of the authority to review or scrutinise decisions made or other action taken in connection with the discharge of any functions which are the responsibility of the executive.
- 5.2 This review function includes the right to 'call-in' a decision for review.
- 5.3 At this Council the scrutiny function lies with Policy Development group (PDG).
- 5.4 Currently the constitution specifies that PDG will hold four meetings per year, with an additional facility to arrange ad-hoc meetings in the event that a call-in cannot be dealt with at a previously scheduled meeting.
- 5.5 As a matter of routine PDG is asked to consider and comment in advance on decisions to be made by Cabinet and Council, for example on budget proposals and constitutional changes. The cycle of PDG meetings is not always synchronised with the decision making process for example and this can cause both delays in reports being submitted to PDG and a heavy workload at meetings.

Recommendation

- 5.6 **It is proposed that the number of meetings of PDG be increased from 4 to 6 and that where possible 'call-in's' will be dealt with at the next scheduled meeting although the ability to call an extra meeting to consider a call-in is retained.**

The proposed amendment to the constitution is attached at Appendix 1.

6.0 Contract Procedure Rules

- 6.1 In 2015 as a result of the enactment of the Public Contracts Regulations 2015 the Council reviewed and updated its Contract Procedure Rules which set out the procedures that officers should consider when procuring goods and services.

6.2 Officers now consider it appropriate that further amendments are made to reduce the administrative burden on officers and members and to streamline the procedures to make them more effective and efficient.

6.3 Arising from this review members attention is drawn to the following points:

6.4 Key Decisions

6.5 The Constitution currently defines a key decision as a decision whereby the Council will either incur expenditure or result in a saving of £100,000. This value has not been increased for at least 10 years.

6.6 Unless there is a pre-existing delegation Key decisions must be made by Cabinet.

6.7 As a result of the fact that the financial value has not been increased the number of requests for Cabinet approval for contracts where the aggregated value over the term of the contract exceeds £100,000 is increasing, when in reality those contracts are 'business as usual'.

Recommendation

6.8 It is proposed therefore that whilst the financial value of a Key Decision is maintained at £100,000 a mechanism is adopted that excludes contracts from the definition of a key decision where:

The expenditure is in relation to a contract for goods or services and:

1) The term of the contract is for more than 1 year and less than 5 years, and:

2) The aggregated value of the contract does not exceed more than £250,000 over its term, and:

3) The value of the contract does not exceed £100,000 in any one year of the term

A copy of the proposed amendments to the constitution is attached as Appendix 2

6.9 Contracts

6.10 The Council currently has three types of contract, Small, Medium and Large, each with different procurement requirements.

6.11 Small – Current requirement

Currently the process for spending anything above £0 to £999.00 requires that three verbal quotes are obtained. As a result the rules are onerous for trivial purchases, and can create a culture of ignoring the rules when officers are spending small amounts (of say up to £100.00). The rule is also difficult to enforce.

Medium sized purchases

Purchases between £1,000 and £10,000 require three verbal quotes and purchases between £10,000 and £24,999 require three written quotes against a specification.

The constitution also requires that appropriate officers are authorised signatories for incurring expenditure. The level of authorisation is determined by the Head of Finance in

conjunction with Internal Audit and will vary dependent upon the seniority of the officer. Currently officers who are authorised to incur expenditure may not be authorised to enter into formal contracts and creates uncertainty amongst staff about the correct authorisation procedures and creates more bureaucracy. The proposed amendment to the procedure will empower staff to make practical decisions and reduce unnecessary bureaucracy.

6.12 Recommendations

That small and medium contracts be merged within the constitution

All spend below £999.00 is delegated to the budget holders professional judgement which will be auditable by reference to the purchase order which will also provide sufficient finance and governance oversight.

That officers who are authorised signatories are also authorised to enter into contracts up to the level of the authorisation (except where other provisions in the contract procedure rules prohibit it).

A copy of the proposed amendments to the constitution is attached as Appendix 3.

- 6.13 That the Monitoring Officer is authorised to make any consequential amendments required to the constitution**